



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,063	04/16/2001	Focke Rass	225/49847	3891

7590 05/09/2003

Crowell & Moring LLP
Intellectual Property Group
P. O. Box 14300
Washington, DC 20044-4300

EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
----------	--------------

3677

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/835,063

Applicant(s)
Rass

Examiner
Estremsky

Art Unit
3677



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 23, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- ## Disposition of Claims
- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 3677

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities:
 - a. Limitation of “inner guide surfaces planar side surfaces” has grammatical problem linking the adjectives and should be rephrased as --planar inner-side guide surfaces-- or equivalent.Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 314 075 B1 in view of U.S. Pat. No. 2,629,621 to Roethel.

EP '075 teaches Applicant's claim limitations including : “latching housing” - including 4, a “rotary latch” - 3, “mounted in the lock housing”: - 10, “tapers trapezoidally” - as shown in Fig 1, “spring biased sliding wedges” 26,26.

Art Unit: 3677

The reference teaches tongue and groove structure between the wedges and the housing but does not disclose “rough positioning guide elements” comprising “bore” and “guide rod” structure and “fine-positioning guide elements” comprising “side walls of the housing” and “planar side surfaces of the latching wedges”. However, Roethel ‘621 teaches a similar device with wedge having a bore and a corresponding guide rod, the wedges and housing also having adjacent planar sides for guiding sliding movement of the wedges within the housing. It would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the sliding wedges of EP 075 with bores/guide rods and corresponding planar guide surfaces on the wedge and housing elements as taught by Roethel ‘621 for the reasons noted by Roethel ‘621. One of ordinary skill in the art would recognize these structures as equivalents to the guide structure disclosed by EP ‘075 since both structures are mechanically similar and perform the same function of guiding the respective wedge such that one of ordinary skill in the art would have more than a reasonable expectation of success.

As regards claim 2, EP ‘075 illustrates structure rigidly connecting the sidewalls of the housing which reads on “base plate”.

As regards claim 5, part 5 is attached at both ends to plates thereby forming a “U-shaped latching bracket with the ends of the U limbs fastened to a baseplate”.

Art Unit: 3677

Allowable Subject Matter

4. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 6 was rejected in the previous Office Action under 35 USC, first paragraph but Applicant's favorable amendments and arguments should be noted as regards withdrawal of that rejection.

Response to Arguments

5. Applicant's arguments have been fully considered but they are not persuasive.

As regards the Roethel '620 reference, as shown in Fig 2, the latch moves right to left during closing movement, the curved portion below the latch contacting the wedge during closing movement and inherently pushing it down and to the left to reach the final, tightly-closed position illustrated in that Fig 2.

Roethel '620, as relied upon for the proposed modification, explicitly discloses substantial tolerance between the guide rod and bore, even taking into account presence of the spring (64). That tolerance inherently teaches "guide play".

Roethel '620, as relied upon, teaches planar surfaces on corresponding slidable guide surfaces of the housing and wedge element. Despite the inherent play provided by the substantial gap between the guide rod and bore, the corresponding planar surfaces of the wedge and housing

Art Unit: 3677

of Roethel '621, as relied upon, inherently provide "fine lateral positional fixing" of the wedge relative to the housing since the wedge will be forced towards the housing sides and there fixed in the final closed position. Since guide rods and bores (as taught by Roethel '621) are substituted for the tongue and groove guide structures of the EP 075 reference, one of ordinary skill in the art would most naturally include the balance of the guide structure of the reference as well. Accordingly, all structure of the claimed invention is taught by EP '075 as modified in view of the teachings of Roethel '621.

While the latch of EP 075, as modified in view of the teachings of Roethel '620 teaches all of the claimed structure and inherently functions as recited in the claim, the examiner notes that ultimately, a *product* claim must rely upon the structure defined in the claim for patentability. While structure may be further defined by functional recitations, often such limitations are broad. See MPEP 2114. The present claim is not considered to be a *product* and *process of using* in the same claim. See MPEP 2173.05(p) sections I,II.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 3677

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Submission of any response by facsimile transmission is encouraged. Group 3627's relevant facsimile numbers are :

- 703-872-9326, for formal communications for entry **before Final** action: or

- 703-872-9327, for formal communications for entry **after Final** action.

Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly within our examining group and will eliminate Post Office processing and delivery time and will bypass the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a Deposit Account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) ____ - ____) on _____

(Date)

Typed or printed name of person signing this certificate:



Creation date: 05-28-2004
Indexing Officer: HTON1 - HUAN TON
Team: OIPEBackFileIndexing
Dossier: 09835063

Legal Date: 01-27-2004

No.	Doccode	Number of pages
1	A...	1
2	CLM	6
3	REM	3

Total number of pages: 10

Remarks:

Order of re-scan issued on